IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

J U D G M E N T

S.B. CRIMINAL REVISION PETITION NO. 105/1995

SHEO RAJ & SURAJMAL Vs. STATE OF RAJASTHAN

DATE: 12.01.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. S.P. Tyagi for the accused-petitioners.
Mr. Ashwani Kr. Sharma, P.P. for the State.

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This revision petition under Section 397 r/w Section 401 Cr.P.C. is directed against the judgment dated 14.02.95 passed by the Additional Sessions Judge No.1, Kota in Criminal Appeal No. 12/87 and against the judgment dated 19.12.85 passed by the Chief Judicial Magistrate, Kota in Criminal Case No. 141/81.

Vide judgment dated 19.12.85, the accused-petitioners have been convicted under Section 7/16 of the Prevention of Food Adulteration Act and sentenced to undergo R.I. for six months and a fine of Rs. 1,000/- each, in default of payment of fine to further undergo R.I. for three months and this judgment has been confirmed by the Appellate Court while dismissing the appeal of the accused-petitioners vide its judgment dated 14.02.95, against which the present revision

petition has been preferred by the accused-petitioners.

Learned counsel for the accused-petitioners without arguing on the merits of the case, placed reliance on the judgment rendered by the Hon'ble Supreme Court in the case of ***N. Sukumaran Nair Vs. Food Inspector, Mavelikara, reported in (1997)9 SCC 101,*** wherein the Hon'ble Supreme Court has observed that "The offence took place in the year 1984. The appellant has been awarded six months' simple imprisonment and has also been ordered to pay a fine of Rs. 1000. Under clause (d) of Section 433 of the Code of Criminal Procedure, "the appropriate government" is empowered to commute the sentence of simple imprisonment for fine. We think that this would be an appropriate case for commutation of sentence where almost a decade has gone by. We, therefore, direct the appellant to deposit in the trial court a sum of Rs. 6000 as fine in commutation of the sentence of six months' simple imprisonment within a period of six weeks from today and intimate to the appropriate Government that such fine has been deposited. On deposit of such fine, the State Government may formalise the matter by passing appropriate order under clause (d) of Section 433 of the Code of Criminal Procedure."

Following the ratio decided by the Hon'ble Supreme Court in the aforementioned case, a co-ordinate Bench of this Court in the case of ***Ramdev Vs. State of Rajasthan, decided on 28.09.2004 and reported in 2005 WLC(Raj.) UC 201*** has also observed that "accused now aged 64, facing trial since 1981- Accused remaining in custody for about 22 days- But for proper legal advice, accused could have even been acquitted- Sentence reduced only up to fine as imposed by trial Court- Fine if not deposited may be deposited within one month."

Similar view has been taken by a co-ordinate Bench of this Court in the case of ***Ram Dayal Vs. State of Rajasthan, decided on 03.02.2005 and reported in 2005(2) R.C.C. 1057.***

Here in the instant case also, the matter related to a complaint filed in the year 1981 and the trial Court vide its judgment dated 19.12.85 has awarded sentence of six months rigorous imprisonment with a fine of Rs. 1,000/- to both the accused-petitioners and they are facing trial since 1981 and had remained in custody for about 10 days.

I have considered the submissions made on behalf of the accused-petitioners as well as the learned Public Prosecutor for the State and have also

gone through the record and the impugned judgments.

As per the ratio decided by the Hon'ble Supreme Court in the aforementioned case of ***N. Sukumaran Nair (supra),*** the present case is also a fit case and would be an appropriate case for commutation of sentence where more than two decades have gone by.

Therefore, the accused-petitioners are directed to deposit a sum of Rs. 5,000/- (Rs. Five thousand) each in the trial Court as fine in commutation of the sentence of six months' rigorous imprisonment within a period of six weeks from today and intimate to the appropriate Government that such fine has been deposited. On deposit of such fine, the State Government may formalise the matter by passing appropriate orders under clause (d) of Section 433 of the Code of Criminal Procedure.

With the aforesaid observations, the present criminal revision petition stands disposed of.

(K.S. RATHORE),J.

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